

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GUARDIAN INDUSTRIES CORP.,)
Plaintiff,)

v.)

DELL, INC; GATEWAY, INC.;)
HEWLETT-PACKARD COMPANY; ACER INC.;)
ACER AMERICA CORPORATION;)
AOC INTERNATIONAL;)
ENVISION PERIPHERALS, INC.;)
TPV TECHNOLOGY, LTD.;)
TPV INTERNATIONAL (USA), INC.;)
AU OPTRONICS CORPORATION;)
AU OPTRONICS CORPORATION AMERICA)
a/k/a AU OPTRONICS AMERICA, INC.;)
BENQ CORPORATION;)
BENQ AMERICA CORPORATION;)
CHUNGHWA PICTURE TUBES, LTD. a/k/a)
CHUNGHWA PICTURE TUBES COMPANY;)
TATUNG COMPANY;)
TATUNG COMPANY OF AMERICA, INC.;)
BOE HYDIS TECHNOLOGY COMPANY, LTD;)
BOE HYDIS AMERICA INC.;)
CHI MEI OPTOELECTRONICS;)
COMPAL ELECTRONICS, INC.;)
DELTA ELECTRONICS, INC.;)
DELTA PRODUCTS CORPORATION;)
DELTA ELECTRONICS (THAILAND))
PUBLIC COMPANY, LTD.;)
HANNSTAR DISPLAY CORPORATION;)
JEAN CO., LTD.; LITE-ON TECHNOLOGY)
CORPORATION; LITE-ON, INC.)
a/k/a LITEON TRADING USA, INC.;)
MAG TECHNOLOGY COMPANY, LTD.;)
MAG TECHNOLOGY USA, INC.;)
PROVIEW INTERNATIONAL HOLDINGS, LTD.;)
PROVIEW TECHNOLOGY, INC.;)
PROVIEW ELECTRONICS COMPANY, LTD; and)
QUANTA DISPLAY, INC.)

Defendants.)

C.A. No. 05-27-SLR

JURY TRIAL DEMANDED

GATEWAY, INC.'S MOTION TO STAY

Customer defendant Gateway, Inc. (“Gateway”) respectfully moves this Court to enter an Order staying the above-captioned action against Gateway pending the final resolution of Plaintiff Guardian Industries Corporation’s (“Guardian”) claims against the liquid crystal display (“LCD”) product manufacturers in this action. The four patents asserted by plaintiff Guardian are directed to specific components of LCDs. In this case, Guardian has sued companies that manufacture LCDs or products containing LCDs and customers of the LCD manufacturers. The LCD manufacturers, not LCD customers like Gateway, are the real parties in interest in this case. The LCD manufacturers are the parties with detailed knowledge of the design, structure and manufacture of the allegedly infringing LCDs, and the parties with the information, documentation and knowledge to defend against Guardian’s claims. Based on indemnification obligations, they also are responsible to their customers for any potential patent infringement liability. In an attempt to simplify this case, Gateway now moves to stay this case against it, thereby allowing the LCD manufacturers to logically take the lead. Further, staying this case against Gateway and the customer defendants pending resolution of Guardian’s claims against the LCD manufacturers would further the interests of justice and litigant efficiency and economy by significantly streamlining and simplifying the issues, discovery and trial in this complex, multi-party case. *See Honeywell Int’l Inc. v. Audiovox Communications Corp.*, C. A. No. 04-1337-KAJ, slip op. at 6-7 (D. Del. May 18, 2005) (Ex. A hereto); *Commissariat A L’Energie Atomique v. Dell Computer Corp.*, C. A. No. 03-484-KAJ, 2004 WL 1554382, at *3 (D. Del. May 13, 2004) (Ex. B hereto).

The grounds for this Motion are fully set forth in the accompanying Memorandum in Support of Gateway, Inc.'s Motion to Stay. A Proposed Order granting Gateway's Motion is submitted herewith (Ex. C hereto).


Rule 7.1.1 Certification. Counsel for Defendant Gateway, Inc. have consulted with counsel for Plaintiff Guardian Industries Corporation pursuant to District of Delaware Local Rule 7.1.1 and have been advised that Plaintiff will not consent to the relief sought by the Motion.

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Dated: June 8, 2005

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685573

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CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on June 8, 2005, the attached document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

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